

MONTANA LEGISLATIVE HISTORY

Chapter 196 19 99

Bill H _____ S 176

Original bill & history ☒ c

H. Committee on Human Ser.

Hearing Date(s) 3-5 ☒ c

3-8 ☒ c

_____ ☐ c

_____ ☐ c

Date Out _____ ☐ c

S. Committee on Judiciary

Hearing Date(s) 1-14 ☒ c

1-21 ☒ c

_____ ☐ c

_____ ☐ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

2/02 Tabled in Committee
3/01 Missed Deadline for General Bill Transmittal

SB 175 Introduced by Eck, et al.

LC0003 Drafter: Martin

Provide an Individual Income Tax Credit for Medical Care Insurance Premiums Paid by State Employees for Certain Dependents of the Taxpayer;...

1/09	Introduced and 1st Reading		
1/09	Referred to Taxation		
1/09	Fiscal Note Requested		
1/13	Fiscal Note Received		
1/14	Fiscal Note Signed		
1/21	Fiscal Note Printed		
1/21	Hearing		
2/01	Tabled in Committee		
2/05	Revised Fiscal Note Requested		
2/06	Revised Fiscal Note Received		
2/08	Revised Fiscal Note Signed		
2/09	Revised Fiscal Note Printed		
3/08	Committee Executive Action--Bill Passed as Amended	5	4
3/08	Committee Report--Bill Passed as Amended		
3/09	Taken from 2nd Reading; Rereferred to Finance and Claims	50	0
3/16	Hearing		
3/19	Tabled in Committee		
3/31	Missed Deadline for Revenue Bill Transmittal		

SB 176 Introduced by Bohlinger, et al.

LC0579 Drafter: Fox

Revise the Montana Elder and Persons with Developmental Disabilities Abuse Prevention Act;...

1/09	Introduced and 1st Reading		
1/09	Referred to Judiciary		
1/14	Hearing		
1/22	Committee Executive Action--Bill Passed as Amended	9	0
1/22	Committee Report--Bill Passed as Amended		
1/23	2nd Reading Passed	45	0
1/26	3rd Reading Passed	49	0
2/16	Transmitted to House		
3/05	Referred to Human Services		
3/09	Hearing		
3/09	Committee Executive Action--Bill Concurred as Amended	15	2
3/10	Committee Report--Bill Concurred as Amended		
3/13	2nd Reading Concurred	73	26
3/15	3rd Reading Concurred	74	25
3/17	Returned to Senate with Amendments		
3/17	2nd Reading House Amendments Concurred	49	0
3/18	3rd Reading Passed as Amended by House	48	0
3/18	Sent to Enrolling		
3/19	Returned from Enrolling		
3/22	Signed by President		
3/23	Signed by Speaker		
3/23	Transmitted to Governor		
3/26	Signed by Governor		

3/30 Chapter Number Assigned
Chapter Number 196
Effective Date: 10/01/1999 - All Sections

SB 177 Introduced by Stang, et al.

LC1030 Drafter: Sternberg

Revise Herd District Laws by Allowing a County Commission to Create a Herd District of 1 Square Mile or More Outside of Incorporated Cities;...

1/09	Introduced and 1st Reading		
1/09	Referred to Agriculture, Livestock and Irrigation		
1/15	Hearing		
1/19	Tabled in Committee		
3/01	Missed Deadline for General Bill Transmittal		

SB 178 Introduced by Nelson

LC0319 Drafter: Sternberg

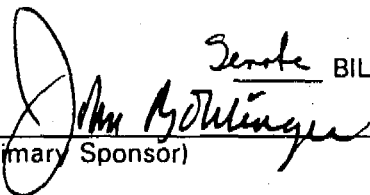
Implement a Moratorium on the Harvest or Removal of Wild Medicinal Plants from State Lands;...

1/09	Introduced and 1st Reading		
1/09	Referred to Agriculture, Livestock and Irrigation		
1/09	Fiscal Note Requested		
1/16	Fiscal Note Received		
1/18	Fiscal Note Printed		
1/18	Hearing		
1/21	Committee Executive Action--Bill Passed as Amended	8	3
1/21	Committee Report--Bill Passed as Amended		
1/23	2nd Reading Passed	34	12
1/26	3rd Reading Passed	36	13
2/16	Transmitted to House		
3/11	Referred to Agriculture		
3/11	Hearing		
3/24	Committee Executive Action--Bill Concurred as Amended	17	3
3/24	Committee Report--Bill Concurred as Amended		
3/27	2nd Reading Concur Motion Failed	49	49
3/27	Segregated from Committee of the Whole Report	51	47
3/31	2nd Reading Concurred	73	27
4/01	3rd Reading Concurred	66	34
4/08	Returned to Senate with Amendments		
4/08	2nd Reading House Amendments Concurred	50	0
4/09	3rd Reading Passed as Amended by House	45	5
4/12	Sent to Enrolling		
4/13	Returned from Enrolling		
4/14	Signed by President		
4/15	Signed by Speaker		
4/15	Transmitted to Governor		
4/20	Signed by Governor		
4/22	Chapter Number Assigned		
	Chapter Number 380		
	Effective Date: 4/20/1999 - All Sections		

Senate BILL NO. 174

INTRODUCED BY

(Primary Sponsor)



A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA ELDER AND PERSONS WITH DEVELOPMENTAL DISABILITIES ABUSE PREVENTION ACT; AMENDING THE DEFINITIONS OF "EXPLOITATION", "MENTAL INJURY", AND "NEGLECT"; INCLUDING ALLEGED EXPLOITATION AS A GROUNDS FOR THE DEPARTMENT TO PERFORM ITS DUTIES AND IN EVIDENTIARY REQUIREMENTS; ALLOWING ADDITIONAL PERSONS TO REPORT ABUSE, SEXUAL ABUSE, NEGLECT, AND EXPLOITATION WITH IMMUNITY FROM LIABILITY; ALLOWING PROSECUTION FOR ABUSE, SEXUAL ABUSE, NEGLECT, OR EXPLOITATION AS A FELONY ON THE FIRST OFFENSE; REQUIRING A CONDITION OF 4 MONTHS JAIL TIME FOR A SUSPENDED OR DEFERRED SENTENCE UPON A SECOND OR SUBSEQUENT CONVICTION; REQUIRING RESTITUTION UPON A SECOND OR SUBSEQUENT CONVICTION OF ABUSE, SEXUAL ABUSE, NEGLECT, OR EXPLOITATION; AND AMENDING SECTIONS 52-3-802, 52-3-803, 52-3-804, 52-3-811, 52-3-813, 52-3-815, AND 52-3-825, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 52-3-802, MCA, is amended to read:

"52-3-802. Legislative findings and purpose. The legislature finds that a need exists to provide for cooperation among law enforcement officials and agencies, courts, and state and county agencies providing human services in preventing the abuse, sexual abuse, neglect, and exploitation of Montana's elderly persons and persons with developmental disabilities through the identification ~~and~~ reporting, and prosecution of acts of abuse, sexual abuse, neglect, and exploitation."

Section 2. Section 52-3-803, MCA, is amended to read:

"52-3-803. Definitions. As used in this part, the following definitions apply:

(1) "Abuse" means:

(a) the infliction of physical or mental injury or a pattern of infliction of pain; or

(b) the deprivation of food, shelter, clothing, or services necessary to maintain the physical or mental health of an older person or a person with a developmental disability without lawful authority. A

1 declaration made pursuant to 50-9-103 constitutes lawful authority.

2 (2) "Department" means the department of public health and human services provided for in
3 2-15-2201.

4 (2)(3) "Exploitation" means:

5 (a) the unreasonable use of an older person or a person with a developmental disability or of a
6 power of attorney, conservatorship, or guardianship with regard to an older person or a person with a
7 developmental disability; to obtain control of or to divert to the advantage of another the ownership, use,
8 benefit, or possession of the person's money, assets, or the person's property to the advantage of
9 another by means of deception, duress, menace, fraud, or undue influence, or intimidation with the intent
10 or result of permanently depriving the older person or person with a developmental disability of the
11 ownership, use, benefit, or possession of the person's money, assets, or property;

12 (b) an act taken by a person who has the trust and confidence of an older person or a person with
13 a developmental disability to obtain control of or to divert to the advantage of another the ownership, use,
14 benefit, or possession of the person's money, assets, or property by means of deception, duress, menace,
15 fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person
16 or person with a developmental disability of the ownership, use, or benefit of the person's money, assets,
17 or property.

18 (3)(4) "Incapacitated person" has the meaning given in 72-5-101.

19 (4)(5) "Long-term care facility" means a facility defined in 50-5-101.

20 (5)(6) "Mental injury" means an identifiable and substantial impairment of an older a person's
21 intellectual or psychological functioning or well-being or a pattern of the infliction of mental anguish.

22 (6)(7) "Neglect" means the failure of a guardian, an employee of a public or private residential
23 institution, facility, home, or agency; or any person legally responsible in a residential setting for the
24 welfare of;

25 (a) a person who has assumed legal responsibility or a contractual obligation for caring for an
26 older person or a person with a developmental disability or who has voluntarily assumed responsibility for
27 the person's care, including an employee of a public or private residential institution, facility, home, or
28 agency, to provide, to the extent of legal responsibility, food, shelter, clothing, or services necessary to
29 maintain the physical or mental health of the older person or the person with a developmental disability;
30 or

(b) an older person or a person with a developmental disability to provide for the older person's or person with a developmental disability's own needs because of an inability to do so.

~~(7)~~(8) "Older person" means a person who is at least 60 years of age. For purposes of prosecution under 52-3-825(2), the person 60 years of age or older must be unable to provide personal protection from abuse, sexual abuse, neglect, or exploitation because of a mental or physical impairment or because of frailties or dependencies brought about by advanced age.

~~(8)~~(9) "Person with a developmental disability" means a person 18 years of age or older who has a developmental disability, as defined in 53-20-102.

~~(9)~~(10) "Physical injury" means death, permanent or temporary disfigurement, or impairment of any bodily organ or function.

~~(10)~~(11) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, or incest, as described in Title 45, chapter 5, part 5."

Section 3. Section 52-3-804, MCA, is amended to read:

"52-3-804. Duties of department. (1) The department shall investigate reports of abuse, sexual abuse, neglect, or exploitation received pursuant to 52-3-811(1)(a).

(2) The department ~~of public health and human services~~ shall prepare an annual report of the information obtained pursuant to the reporting requirement of this part.

(3) The department shall, when appropriate, provide protective services under Title 52, chapter 3, part 2, for an older person or a person with a developmental disability alleged to have been abused, sexually abused, neglected, or exploited.

(4) If a person alleged to be abused, sexually abused, neglected, or exploited pursuant to this part or the person's caretaker refuses to allow a representative of the department entrance to the premises for the purpose of investigating a report made pursuant to 52-3-811(1)(a); the district court in the county where the person is found may order a law enforcement officer or a department social worker to enter the premises to conduct an investigation upon finding that there is probable cause to believe that the person is abused, sexually abused, neglected, or exploited.

(5) If a representative of the department has reasonable grounds to believe that an older person or a person with a developmental disability alleged to be abused, sexually abused, ~~or~~ neglected, or

1 exploited is suffering from abuse, sexual abuse, or neglect, or exploitation that presents a substantial risk
2 of death or serious physical injury or of being repeated, the department may:

3 (a) provide voluntary protective services as provided in subsection (3); or

4 (b) if the department representative has reasonable grounds to believe that the person is
5 incapacitated, provide emergency protective services as follows:

6 (i) arrange or facilitate an appropriate emergency protective service placement;

7 (ii) transport or arrange for the transport of the person to the appropriate placement;

8 (iii) not later than 2 judicial days following placement of the person, either:

9 (A) provide voluntary protective services as provided under subsection (3); or

10 (B) petition the district court to act as temporary guardian or appoint a temporary guardian as
11 provided in 72-5-317."

12
13 **Section 4.** Section 52-3-811, MCA, is amended to read:

14 **"52-3-811. Reports.** (1) When the professionals and other persons listed in subsection (3) know
15 or have reasonable cause to suspect that an older person or a person with a developmental disability
16 known to them in their professional or official capacities has been subjected to abuse, sexual abuse,
17 neglect, or exploitation, they shall:

18 (a) if the person is not a resident of a long-term care facility, report the matter to:

19 (i) the department ~~of public health and human services~~ or its local affiliate; or

20 (ii) the county attorney of the county in which the person resides or in which the acts that are the
21 subject of the report occurred;

22 (b) if the person is a resident of a long-term care facility, report the matter to the long-term care
23 ombudsman appointed under the provisions of 42 U.S.C. 3027(a)(12) and to the department ~~of public~~
24 ~~health and human services~~. The department shall investigate the matter pursuant to its authority in
25 50-5-204 and, if it finds any allegations of abuse, sexual abuse, neglect, or exploitation contained in the
26 report to be substantially true, forward a copy of the report to the county attorney as provided in
27 subsection (1)(a)(ii).

28 (2) If the report required in subsection (1) involves an act or omission of the department ~~of public~~
29 ~~health and human services~~ that may be construed as abuse, sexual abuse, neglect, or exploitation, a copy
30 of the report may not be sent to the department but must be sent instead to the county attorney of the

county in which the older person or the person with a developmental disability resides or in which the acts that are the subject of the report occurred.

(3) Professionals and other persons required to report are:

(a) a physician, resident, intern, professional or practical nurse, physician's assistant, or member of a hospital staff engaged in the admission, examination, care, or treatment of persons;

(b) an osteopath, dentist, denturist, chiropractor, optometrist, podiatrist, medical examiner, coroner, or any other health or mental health professional;

(c) an ambulance attendant;

(d) a social worker or other employee of the state, a county, or a municipality assisting an older person or a person with a developmental disability in the application for or receipt of public assistance payments or services;

(e) a person who maintains or is employed by a roominghouse, retirement home or complex, nursing home, group home, or adult foster care home, adult day-care center, or personal care facility or an agency or individual that provides home health services or personal care in the home;

(f) an attorney, unless the attorney acquired knowledge of the facts required to be reported from a client and the attorney-client privilege applies;

(g) a peace officer or other law enforcement official; ~~and~~

(h) a person providing services to an older person or a person with a developmental disability pursuant to a contract with a state or federal agency; and

(i) an employee of the department while in the conduct of the employee's duties.

(4) Any other persons or entities may, but are not required to, submit a report in accordance with subsection (1), including:

(a) a coroner, medical examiner, or funeral director;

(b) a clergyperson, including a practitioner of Christian science or a religious healer, or a priest unless:

(i) the knowledge or suspicion of the abuse, sexual abuse, neglect, or exploitation came from a statement or confession made to the clergyperson or priest in that person's capacity as a clergyperson or priest;

(ii) the statement was intended to be a part of a confidential communication between the clergyperson or priest and a member of the clergyperson's or priest's church or congregation;

1 (iii) the person who made the statement or confession does not consent to the disclosure by the
2 clergy person or priest; or

3 (iv) the communication is required to be confidential by canon law, church doctrine, or established
4 church practice;

5 (c) a person who serves as a volunteer for an agency or service that provides services or advises
6 persons regarding the abuse, sexual abuse, neglect, or exploitation of an older person or a person with
7 a developmental disability and refers them to persons or agencies where their needs can be met;

8 (d) a mediator or other professional in the alternative dispute resolution field, unless listed in
9 subsection (3);

10 (e) an officer or employee of a financial institution or credit union, including stock brokers,
11 insurance agents, and bankers; or

12 (f) an employee of a parcel delivery service.

13 ~~(4) Any other person may submit a report as provided in subsection (1).~~"

14

15 Section 5. Section 52-3-812, MCA, is amended to read:

16 "52-3-812. Content of report. (1) The report required by 52-3-811 may be made in writing or
17 orally, by telephone or in person. A person who receives an oral report ~~must~~ shall prepare it in writing as
18 soon as possible.

19 (2) The report referred to under this section ~~shall~~ must contain:

20 (a) the names and addresses of the older person or the person with a developmental disability and
21 the person, if any, responsible for ~~the~~ that person's care;

22 (b) the name and address, if available, of the person who is alleged to have abused, sexually
23 abused, neglected, or exploited the older person or the person with a developmental disability;

24 (c) to the extent known, the person's age and the nature and extent of the abuse, sexual abuse,
25 neglect, or exploitation, including any evidence of previous injuries; abuse, sexual abuse, neglect, or
26 exploitation sustained by the older person or the person with a developmental disability and any evidence
27 of prior instances of abuse, sexual abuse, neglect, or exploitation of other older persons or persons with
28 developmental disabilities committed by the person alleged to have committed abuse, sexual abuse,
29 neglect, or exploitation; and

30 (d) the name and address of the person making the report."

Section 6. Section 52-3-813, MCA, is amended to read:

"52-3-813. Confidentiality. (1) The case records of the department of public health and human services, its local affiliate, the county attorney, and the court, concerning actions taken under this part, and all reports made pursuant to 52-3-811 must be kept confidential except as provided by this section. For the purposes of this section, the term "case records" includes records of an investigation of a report of abuse, sexual abuse, neglect, or exploitation.

(2) The records and reports required to be kept confidential by subsection (1) may be disclosed, upon request, to the following persons or entities in this or any other state:

(a) a physician who is caring for an older person or a person with a developmental disability who the physician reasonably believes was abused, sexually abused, neglected, or exploited;

(b) a legal guardian or conservator of the older person or the person with a developmental disability if the identity of the person who made the report is protected and the legal guardian or conservator is not the person suspected of the abuse, sexual abuse, neglect, or exploitation;

(c) the person named in the report as allegedly being abused, sexually abused, neglected, or exploited if that person is not legally incompetent;

(d) any person engaged in bona fide research if the person alleged in the report to have committed the abuse, sexual abuse, neglect, or exploitation is later convicted of an offense constituting abuse, sexual abuse, neglect, or exploitation and if the identity of the older person or the person with a developmental disability who is the subject of the report is not disclosed to the researcher;

(e) an adult protective service team. Members of the team are required to keep information about the subject individuals confidential.

(f) an authorized representative of a provider of services to a person alleged to be an abused, sexually abused, neglected, or exploited older person or person with a developmental disability if:

(i) the department and the provider are parties to a contested case proceeding under Title 2, chapter 4, part 6, resulting from action by the department adverse to the license of the provider and if information contained in the records or reports of the department is relevant to the case;

(ii) disclosure to the provider is determined by the department to be necessary to protect an interest of a person alleged to be an abused, sexually abused, neglected, or exploited older person or person with a developmental disability; or

1 (iii) the person is carrying out background screening or employment- or volunteer-related screening
2 of current or prospective employees or volunteers who have or may have unsupervised contact with an
3 older person or a person with a developmental disability through employment or volunteer activities if the
4 disclosure is limited to information that indicates a risk to an older person or a person with a
5 developmental disability posed by the employee or volunteer, as determined by the department. A request
6 for information under this subsection must be made in writing.

7 (g) an employee of the department if disclosure of the record or report is necessary for
8 administration of a program designed to benefit a person alleged to be an abused, sexually abused,
9 neglected, or exploited older person or person with a developmental disability;

10 (h) an authorized representative of a guardianship program approved by the department if the
11 department determines that disclosure to the program or to a person designated by the program is
12 necessary for the proper provision of guardianship services to a person alleged to be an abused, sexually
13 abused, neglected, or exploited older person or person with a developmental disability;

14 (i) protection and advocacy systems authorized under the provisions of 29 U.S.C. 794e, 42
15 U.S.C. 6042, and 42 U.S.C. 10805;

16 (j) the news media if disclosure is limited to confirmation of factual information regarding how
17 the case was handled and does not violate the privacy rights of the older person, person with a
18 developmental disability, or alleged perpetrator of abuse, sexual abuse, neglect, or exploitation, as
19 determined by the department;

20 (k) a coroner or medical examiner who is determining the cause of death of an older person or
21 a person with a developmental disability;

22 (l) a person about whom a report has been made and that person's attorney with respect to
23 relevant records pertaining to that person only without disclosing the identity of the person who made
24 the report or any other person whose safety might be endangered through disclosure;

25 (m) an agency, including a probation or parole agency, that is legally responsible for the
26 supervision of an alleged perpetrator of abuse, sexual abuse, neglect, or exploitation of an older person
27 or a person with a developmental disability; and

28 (n) a department, agency, or organization, including a federal agency, military reservation, or tribal
29 organization, that is legally authorized to receive, inspect, or investigate reports of abuse, sexual abuse,
30 neglect, or exploitation of an older person or a person with a developmental disability and that meets the

disclosure criteria contained in this section.

(3) The records and reports required to be kept confidential by subsection (1) must be disclosed, upon request, to the following persons or entities in this or any other state:

(a) a county attorney or other law enforcement official who requires the information in connection with an investigation of a violation of this part;

(b) a court that has determined, in camera, that public disclosure of the report, data, information, or record is necessary for the determination of an issue before it;

(c) a grand jury upon its determination that the report, data, information, or record is necessary in the conduct of its official business.

(4) If the person who is reported to have abused, sexually abused, neglected, or exploited an older person or a person with a developmental disability is the holder of a license, permit, or certificate issued by the department of commerce under the provisions of Title 37 or issued by any other entity of state government, the report may be submitted to the entity that issued the license, permit, or certificate."

Section 7. Section 52-3-815, MCA, is amended to read:

"52-3-815. Evidence of abuse, sexual abuse, or neglect, or exploitation to be gathered and submitted. (1) A person or agency receiving a report of suspected abuse, sexual abuse, or neglect, or exploitation under 52-3-811 shall prepare a written description of the conditions regarded as evidence of abuse, sexual abuse, or neglect, or exploitation and may, with the consent of an allegedly abused, sexually abused, or neglected, or exploited older person or person with a developmental disability or without consent of the person if it appears that the person is an incapacitated person, take or cause to be taken photographs of an area of trauma visible on the body of the allegedly abused, sexually abused, or neglected, or exploited person and regarded as evidence of abuse, sexual abuse, or neglect, or exploitation.

(2) A physician required to report under 52-3-811 may, with the consent of an allegedly abused, sexually abused, or neglected, or exploited older person or person with a developmental disability or without consent of the person if it appears that the person is an incapacitated person, require x-rays or other appropriate medical tests or procedures that would, in the professional opinion of the physician, assist in establishing evidence related to the allegation of abuse, sexual abuse, or neglect, or exploitation.

(3) Evidence authorized to be gathered under this section must be submitted with the report

1 required under 52-3-811 to the authorities designated in 52-3-811 as soon as possible after submission
2 of the report."

3
4 **Section 8.** Section 52-3-825, MCA, is amended to read:

5 "52-3-825. Penalties. (1) Any person who purposely or knowingly fails to make a report required
6 by 52-3-811 or discloses or fails to disclose the contents of a case record or report in violation of
7 52-3-813 is guilty of an offense and upon conviction is punishable as provided in 46-18-212.

8 (2) Any individual who purposely or knowingly abuses, sexually abuses, neglects as defined in
9 52-3-803(7)(a), or exploits an older person or a person with a developmental disability is guilty of an
10 offense a misdemeanor and upon a first conviction may be fined an amount not to exceed ~~\$500~~ \$1,000
11 or be imprisoned in the county jail for a term not to exceed ~~6 months~~ 1 year, or both, ~~and upon~~. Upon a
12 second or succeeding conviction, an individual may be imprisoned for a term not to exceed 10 years and
13 may be fined an amount not to exceed \$10,000, or both. If a person convicted of a second or subsequent
14 offense receives a suspended or deferred sentence, the person shall serve at least 4 months of time in
15 a detention center as a condition of the suspended or deferred sentence.

16 (3) An individual convicted under subsection (2) must be required to provide financial restitution
17 for any assets that have been appropriated to the advantage of another person by means of exploitation
18 through the use of deception, duress, menace, fraud, undue influence, or intimidation."

19 - END -

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (S) Judiciary -

04:57 PM

-
- SB 155** **SPONSOR:** Berry, Dale **SHORT TITLE:** Revise disclosure laws for real estate brokers
 REFERRED ON: 01/07/1999 **HEARD ON:** 01/19/1999
 EXECUTIVE ACTION: 01/22/1999 Bill Passed as Amended -- VOTE: 8 - 0
 FINAL DISPOSITION 03/19/1999 Chapter Number Assigned
-
- SB 158** **SPONSOR:** Glaser, Bill **SHORT TITLE:** Revise dangerous drug laws
 REFERRED ON: 01/07/1999 **HEARD ON:** 01/13/1999
 EXECUTIVE ACTION: 01/16/1999 Bill Passed as Amended -- VOTE: 8 - 0
 FINAL DISPOSITION 04/22/1999 (H) Died in Standing Committee
-
- SB 163** **SPONSOR:** Mahlum, Dale **SHORT TITLE:** Railroad vandalism and trespass act
 REFERRED ON: 01/08/1999 **HEARD ON:** 01/14/1999
 EXECUTIVE ACTION: 02/01/1999 Bill Passed as Amended -- VOTE: 6 - 3
 FINAL DISPOSITION 04/22/1999 (H) Died in Standing Committee
-
- SB 165** **SPONSOR:** Lynch, J.D. **SHORT TITLE:** Create possessory lien for the payment of towing and storage charges
 REFERRED ON: 01/08/1999 **HEARD ON:** 01/13/1999
 EXECUTIVE ACTION: 01/26/1999 Bill Passed as Amended -- VOTE: 8 - 0
 FINAL DISPOSITION 03/25/1999 Chapter Number Assigned
-
- SB 176** **SPONSOR:** Bohlinger, John **SHORT TITLE:** Revise laws on abuse of elders and persons with developmental disabilities
 REFERRED ON: 01/09/1999 **HEARD ON:** 01/14/1999
 EXECUTIVE ACTION: 01/22/1999 Bill Passed as Amended -- VOTE: 9 - 0
 FINAL DISPOSITION 03/30/1999 Chapter Number Assigned
-
- SB 179** **SPONSOR:** Holden, Ric **SHORT TITLE:** Clarify time of effect of temporary driving permit
 BY REQUEST OF: (S) Judiciary Standing Committee
 REFERRED ON: 01/09/1999 **HEARD ON:** 01/14/1999
 EXECUTIVE ACTION: 01/14/1999 Bill Passed -- VOTE: 9 - 0
 FINAL DISPOSITION 04/12/1999 Chapter Number Assigned
-
- SB 185** **SPONSOR:** Christiaens, Chris **SHORT TITLE:** Prohibit clearinghouse sweepstakes fraud
 REFERRED ON: 01/11/1999 **HEARD ON:** 01/18/1999
 TABLED ON: 01/22/1999
 FINAL DISPOSITION 03/31/1999 (S) Missed Deadline for Revenue Bill Transmittal
-

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By SEN. LORENTS GROSFIELD, on January 14, 1999 at 9:00 A.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Steve Doherty (D)
Sen. Sue Bartlett (D)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Branch
Judy Keintz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 163, SB 176, SB 179,
1/11/1999
Executive Action: SB 22, SB 179

HEARING ON SB 179

Sponsor: SEN. RIC HOLDEN, SD 1, Glendive

Proponents: Greg Petesch, Code Commissioner

Opponents: None

Opening by Sponsor:

SEN. RIC HOLDEN, SD 1, Glendive, introduced SB 179 which clarified that a temporary driving permit issued to a person arrested for driving under the influence of alcohol or drugs is not effective until twelve hours after issuance.

Proponents' Testimony:

Greg Petesch, Code Commissioner, explained that this is suggestive legislation which he brought before the committee. This bill clarifies that after a person's drivers' license had been seized for refusal to submit to a breath test on a suspected DUI, the temporary driving permit that is issued by the police officer to the individual who refuses the test does not take effect until 12 hours after it has been issued. In City of Helena v. Danichek, the individual refused the breath test and was issued the temporary driving permit. In his special concurring opinion on the case Justice Nelson pointed out that Montana statute on issuance of temporary driving permits is unique in that it does not have a delayed time period for taking effect. Section 61-8-402, MCA, requires that a drunk driver be issued a temporary driving permit as the driver leaves the police station and even before the driver is sober.

Opponents' Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor: SEN. HOLDEN closed on SB 197.

{Tape : 1; Side : A; Approx. Time Counter : 9.09}

HEARING ON SB 176 - Chap 196 1999

Sponsor: SEN. JOHN BOHLINGER, SD 7, Billings

Proponents: Wally Melcher, Developmental Disabilities Systems
Advocacy Committee (DDSAC)
Rose Hughes, Executive Director, Montana Health
Care Association.
Craig Sweet, Montana Public Interest Research
Group
Jeanne Bauman, Montana Credit Union Leagues
Susan DeBree, United Methodist Church
Christine Kaufman, Montana Human Rights Network
Al Smith, Montana Trial Lawyers Association
Mike Hanshew, Department of Health and Human
Services

Opponents: None

Opening by Sponsor: SEN. JOHN BOHLINGER, SD 7, Billings, introduced SB 176. He remarked that Montana elder abuse laws were enacted in 1983 and have had only minor amendments since that time. Who can be penalized, the seriousness of the crime, and the penalties have all remained the same for the past 16 years. Changes in health care, combined with the advent of technological advances that make exploitation cheap and fast, and a heightened awareness of the various forms that abuse may take compels us to strengthen reporting, enforcement and prosecution. The rapid aging of Montana's population in the next century will mean that more seniors will be at risk. The advent of day care centers, residential care homes, assisted living facilities, and home care expansion has increased the risk of abuse and the exploitation of seniors.

Financial exploitation can occur at all income levels. With savings and income severely depleted, many elders and vulnerable adults can lack the resources to buy food, receive medical care or pay the rent. The intent of this bill is to increase incentives for individuals and agencies to report, investigate and prosecute elder abuse. Under current law elder abuse is only a misdemeanor. By increasing the opportunity to prosecute cases for elder abuse as a felony, then reporting, investigation, and prosecution incentives will be enhanced.

The first offense will be classified as a high misdemeanor. The second offense will be a felony. The bill includes technical changes to include financial exploitation and adds mental anguish as abuse. It specifically names individuals who administer a power of attorney, conservatorship, or guardianship as subject to investigation and prosecution. It adds to the list of entities required to report. It allows financial institutions and other entities, who have asked to be specifically listed, the discretion to report alleged exploitation with immunity from liability. It authorizes the department to include evidence of prior abuse committed by a person.

Section 1 adds the word "prosecution" to the intent language. Section 2 clarifies the term "exploitation" to mean diverting assets away from a victim. It specifically includes persons acting with or as powers of attorney, conservators or guardians. Subsection (6) adds "mental anguish" to the definition of mental injury. Subsection (7) clarifies neglect to include someone who has voluntarily or contractually assumed responsibility for a person. Section 3 adds exploitation as an abuse to investigate and adds the potential for repeated abuse as justification. Section 4 adds to those who are required to report such as assisted living facilities, health and personal care givers, in-

home care givers, and employees of the department. Subsection (4) authorizes discretionary reporters. Entities, including banks, are not subject to fine if they do not report. These entities are released from the liability if they do report abuse. Section 5 adds prior abuse committed by a person. Section 6 affirms that case records are confidential. Section 7 adds evidence of exploitation to the list. Section 8 increases the first felony to be a high misdemeanor and the second conviction to be judged a felony. All cases will require financial restitution and mandatory jail time on the second conviction.

Proponents' Testimony: Wally Melcher, Developmental Disabilities Systems Advocacy Committee (DDSAC), spoke in strong support for the rights, good health, and personal safety of individuals with developmental disabilities. This legislation supports their goals by elaborating upon the definitions of exploitation, expanding the list of individuals who must or may report incidents of abuse, neglect, or exploitation and increasing the penalties for perpetrators.

He raised a concern with the term "undue influence" used in Section 2 (3) (b) to describe a means by which an individual could be exploited. Many individuals who work directly with persons who have developmental disabilities, form very close and trusting relationships with those they serve. They teach these individuals a variety of personal and intimate skills including the management and use of their personal property and money. It will be useful if this statute clarified more specifically the line between influencing and unduly influencing a person with a developmental disability so this could be explained to Montana service providers.

In Section 2(3)(a) and (6), the phrases "a pattern of infliction of pain" and "a pattern of infliction of mental anguish" are used. They are uncertain what actually constitutes these two patterns and would find it helpful if this terminology were further defined. Montana's laws should be working documents and tools for those who manage and implement services to persons with disabilities. Written testimony of Wally Melcher, EXHIBIT(1).

Rose Hughes, Executive Director, Montana Health Care Association, presented her written testimony, EXHIBIT(2).

Craig Sweet, Montana Public Interest Research Group, rose in support of SB 176. He stated that the definition of exploitation mentioned deception, menace and intimidation. Trust and confidence is something that should never be betrayed while giving care to the elderly or those with mental disabilities. This legislation clarified the duties and responsibility that people have to report abuse. Often people are afraid to report

abuse. Regarding the language about pattern of inflicting pain or pattern of inflicting mental anguish, he urged caution. Patterns can often be very subtle and go totally undetected by co-workers or family for years.

Susan DeBree, United Methodist Church, spoke in support of SB 176. Elders can be the most vulnerable people in our society and are oftentimes taken advantage of by others who have access to their resources.

Christine Kaufman, Montana Human Rights Network, spoke in support of strengthening laws protecting the elderly and people with development disabilities. A person's human rights do not end when they reach a certain age or acquire a disability.

Jeanne Bauman, Montana Credit Union Leagues, presented her written testimony in support of SB 176, EXHIBIT(3).

Al Smith, Montana Trial Lawyers Association, stated that this legislation gives needed additions to protect the most vulnerable of our fellow citizens in Montana. It is very important that steps have been taken to encourage reporting of suspected abuse or exploitation.

Mike Hanshaw, Department of Health and Human Services, rose in support of SB 176, especially its attempt to address the issue of exploitation and clarification of the reporting requirements of the current law.

Opponents' Testimony: None.

{Tape : 1; Side : A; Approx. Time Counter : 9.38}

Questions from Committee Members and Responses:

SEN. JABS asked for clarification of lines 1 and 2 on page 3. **Rick Bartos, Adult Protective Services, Department of Public Health and Human Services**, explained that this refers to self neglect. Neglect can occur by an individual neglecting their responsibilities to another person. Individuals can also neglect themselves as well. The department tracks self neglect cases and provides follow up services. This may be an elderly person living alone who does not take sufficient nutrition.

CHAIRMAN GROSFIELD questioned if the word "inability" should be changed to "unwillingness". **Mr. Bartos** stated that the word "inability" provided the groundwork for defining a pre-condition before a social service agency would intervene. The reason a person is not taking nutrition is typically because of dementia

or the first stage of Alzheimer's. This is a precondition for the social service agency to help. If a person chooses to make a wrong decision, that's their business and government should not interfere.

SEN. GRIMES raised a concern about a disgruntled employee who is terminated having a standing for retaliation against an employer. He questioned the definition of "pattern". **Mr. Bartos** stated that each case is factually driven. An individual who recklessly or in bad faith retaliates against his employer without reasonable grounds for the referral, will lose his or her immunity protections under the law. In 1983, the legislature provided immunity for mandatory and nonmandatory reporters who have seen or observed this type of behavior. If this was done with gross or wanton disregard of what actually is happening, immunity would not extend. An individual can suffer an infliction of pain by a care giver but it would not result in death or a permanent impairment or bodily disfigurement. If this is not workable for the industry, it could be amended out of the legislation.

SEN. GRIMES asked the sponsor if he would be amenable to striking the language pertaining to a pattern. **SEN. BOHLINGER** responded that he understood the concerns that have been raised with respect to the question of pattern or infliction of pain. He would be in favor of an amendment that would address these concerns.

SEN. JABS questioned whether lines 1 and 2 on page 3 could result in a person being charged with negligence. **Mr. Bartos** stated that a person who neglects himself or herself is not committing a criminal act. If there was a perpetrator who was neglecting another person, it could be referred for prosecution.

SEN. HOLDEN referring to page 2, line 26, questioned if the word "voluntary" may have an adverse affect on volunteers. **Mr. Bartos** stated that volunteers are very important for the social service community. There are situations where people voluntary take on the responsibility to be a care giver simply to be in a position to take advantage of a vulnerable person.

SEN. HOLDEN questioned whether the language on page 3, lines 1 and 2, would allow social workers to step into other person's lives more than necessary. **Mr. Bartos** responded that there are limited resources and persons to address elder abuse and developmentally disabled person abuse. If relatives or family members are available, the social services policy is to refer these matters to the relatives and to the family. The government is a last resort when no one else will care for these people. Current law contains a presumption that any person, including an

older person, maintains their mental capacity to make bad decisions. Unless a district court determines that a person is not competent, they defer to the judgment of the person who is self neglecting himself.

SEN. GRIMES asked **Ms. Hughes** whether the reporting requirements would be unreasonable burdens for nursing homes. **Ms. Hughes** responded that they supported reporting requirements and are currently required to report under this law and federal law if they are aware of instances of abuse. With this legislation, the reporting requirements are expanded to other types of care facilities such as personal care, residential care, and adult foster care.

{Tape : 2; Side : A; Approx. Time Counter : 10:00}

CHAIRMAN GROSFIELD stated that Section 6 contained language regarding confidentiality. He stated that he did not see a prohibition for the person making the report not to turn it over to the press if he or she so desired. **Mr. Bartos** stated that they are unaware of any situations where there has been a wanton or gross release of information that violated an individual's confidentiality rights.

CHAIRMAN GROSFIELD remarked that "undue influence" could be in the eyes of the beholder. **Mr. Bartos** stated that this was a legal term defined by case law. This would include taking advantage of a superior position against another person. An example would be for an attorney drafting a will, knowing that the person had limited ability to understand what was going on, to place his or her name as a beneficiary of the will.

SEN. GRIMES questioned whether the language "pattern of affliction of pain" could be misconstrued to include life sustaining techniques. **Mr. Bartos** stated that the legislature has adopted the Montana Rights of the Terminally Ill Act which includes very defined protocol and procedures by which an individual or a care giver can withhold life sustaining treatment. This act supersedes the Adult Protective Services Act.

CHAIRMAN GROSFIELD questioned whether this would affect hospice. **Mr. Bartos** maintained that a hospice nurse can exploit or abuse an individual, but if the hospice nurse is following the protocol of the hospital in established medical standards, it is not abuse or exploitation.

{Tape : 2; Side : B; Approx. Time Counter : 10.10}

SEN. BOHLINGER remarked that there were some splendid recommendations made with respect to clarification of some of the language in this bill. This includes clarification and better understanding of terms such as "pattern of infliction of pain" and "mental injury". This bill will encourage more people to come forward regarding elder abuse and to act in a responsible manner. He was pleased with the willingness of financial institutions to be supportive of this legislation. Financial exploitation can be subtle and destructive. He raised a concern recently pointed out to him that there appears to be a conflict in the title found on page 1, line 10, which spoke of the first offense as being a felony. It is their intent to identify the first offense as a high misdemeanor. This is in conflict with page 10, line 10, where the first offense is listed as a misdemeanor.

{Tape : 2; Side : B; Approx. Time Counter : 10.16}

HEARING ON SB 163

Sponsor: SEN. DALE MAHLUM, SD 35, Missoula

Proponents: Russ Ritter, Montana Rail Link
Fran Marso, United Transportation Union
Steve Wade, Burlington Northern

Opponents: None

Opening by Sponsor:

SEN. DALE MAHLUM, SD 35, Missoula, introduced SB 163, which is being proposed to prevent accidents and casualties to person who unlawfully enter upon railroad property. Railroad property belongs to the entity who owns the land upon which the railroad tracks are located. It is important that the people who work on railroads can do so with the ease of mind that their working conditions are the best that can be had. This legislation also talks about vandalism to railroad property. These acts can affect the health and welfare of the public who use this means of public transportation and expect to be safe from any harm that may come from vandals trespassing upon railroad property. This bill does not take the liability away from the railroad entity in case of mismanagement. This bill addresses removing parts of tracks that will endanger the lives of the passengers and crew members.

{Tape : 2; Side : B; Approx. Time Counter : 10.20}

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN LORENTS GROSFIELD, on January 21, 1999 at 9:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 188, SB 198, 1/19/1999
Executive Action: SB 165, SB 176, SB 188

HEARING ON SB 188

Sponsor: SEN. TOM BECK, SD 28, Deer Lodge

Proponents: John Connor, Montana County Attorneys Association

Opponents: None

earliest service of the tow truck operators would be towing the vehicle.

Motion: SEN. GRIMES AMENDED HIS MOTION TO INSERT REASONABLE TOWING AND STORAGE. HE WOULD ELIMINATE (2) AND (3).

Ms. Lane stated that in (2), line 5, following the word "carriage" an insertion could state "including the towing and storage of a motor vehicle".

SEN. GRIMES suggested stating "carriage, towing, or storage of the article". This would strike the new language in (3).

Ms. Lane explained that the amendment is still drafted as a substitute bill. She added that SEN. GRIMES' motion is to use SB0016502.avl, strike out the new language in (3)(a) and (b) and simply insert "towing and storage" in (2).

Vote: The motion carried, 7-2, with SENATORS DOHERTY and HOLDEN voting "no".

Motion: SEN. DOHERTY MOVED TO INSERT THE WORDS "REASONABLE TOWING OR REASONABLE STORAGE".

Ms. Lane suggested an insertion in the second to the last line in (2), following material, stating "or reasonable towing and storage charges".

Vote: The motion carried unanimously, 9-0.

Motion/Vote: SEN. HALLIGAN MOVED SB 165 AS AMENDED. The motion carried, 8-1, with SEN. HOLDEN voting "no".

{Tape : 2; Side : A; Approx. Time Counter : 10.55}

EXECUTIVE ACTION ON SB 176 *

Motion: SEN. HALLIGAN MOVED TO AMEND SB 176, (SB0017601.avl - EXHIBIT(6)).

Discussion:

SEN. GRIMES remarked that amendments 4-6 addressed a pattern of infliction of pain. This is quite subjective and may create major issues out of minor circumstances that occur in facilities.

Vote: The motion carried unanimously.

Motion: SEN. HOLDEN MOVED TO AMEND SB 176, (SB0017602.avl - EXHIBIT(7)).

Discussion:

Ms. Lane explained that the amendments would remove the self neglect provisions found on page 3, lines 1 and 2.

SEN. HOLDEN believed that older people should not be pressured by social workers to leave their homes. This is a concept that should be debated separately at another time.

SEN. HALLIGAN spoke against the motion. He is guardian for six or seven people. Half of those cases were self neglect. This involves mental illness, Alzheimers, etc. Family, friends, or neighbors call Adult Protective Services because they are concerned. There is tremendous neglect at times when people live by themselves. There is a very strong public policy for people to be left alone. The county attorney's office needs to file a petition to ask for a temporary order to provide the person health care or whatever else is needed. A hearing is then held where a person can contest this intervention. Usually it is a family member or a neighbor who is distressed and calls Adult Protective Services because someone they love is harming and neglecting themselves. It is often advanced age that causes the neglect.

SEN. GRIMES stated that in Lewistown a while back the department was notified that someone in their home was in need of care. Later on, they found this person dead. The department was severely criticized but stated that they felt it would be an intrusion for them to go in earlier due to the circumstances. He questioned whether this might be creating more liability for the department.

SEN. HALLIGAN believed this bill would add some clarity for action. It may create a potential problem if the department does not act.

CHAIRMAN GROSFIELD maintained that neglect only applies to a person who has assumed legal responsibility where before it applied to the agency, a guardian, or any person legally responsible.

SEN. GRIMES questioned whether this may be a policy change for the department. Ms. Lane believed that it could be an inadvertent policy change. The old language stated "an employee of a public agency". It is obvious that the department does not intend to intervene in their own conduct and behavior. They would not intend neglect to mean their failure to act.

Vote: The motion carried on roll call vote, 5-4.

Motion/Vote: SEN. HALLIGAN MOVED SB 176 DO PASS AS AMENDED. The motion carried unanimously, 9-0.

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (H) Human Services -

01:10 PM

-
- SB 76** **SPONSOR:** Beck, Tom **SHORT TITLE:** Revise assignment of support rights
BY REQUEST OF: Department Of Public Health And Human Services
REFERRED ON: 01/19/1999 HEARD ON: 01/22/1999
EXECUTIVE ACTION: 02/03/1999 Bill Concurred -- VOTE: 17 - 0
FINAL DISPOSITION 02/20/1999 Chapter Number Assigned
-
- SB 93** **SPONSOR:** Hargrove, Don **SHORT TITLE:** Revise subsidized adoption law
BY REQUEST OF: Department Of Public Health And Human Services
REFERRED ON: 01/19/1999 HEARD ON: 01/27/1999
EXECUTIVE ACTION: 02/03/1999 Bill Concurred -- VOTE: 17 - 0
FINAL DISPOSITION 02/18/1999 Chapter Number Assigned
-
- SB 101** **SPONSOR:** Franklin, Eve **SHORT TITLE:** Clarify emergency service infectious disease laws
BY REQUEST OF: Department Of Public Health And Human Services
REFERRED ON: 02/16/1999 HEARD ON: 03/03/1999
EXECUTIVE ACTION: 03/04/1999 Bill Concurred -- VOTE: 18 - 0
FINAL DISPOSITION 03/24/1999 Chapter Number Assigned
-
- SB 116** **SPONSOR:** Glaser, Bill **SHORT TITLE:** Generally revise statutes relating to health care facilities
BY REQUEST OF: Department Of Public Health And Human Services
REFERRED ON: 02/16/1999 HEARD ON: 03/03/1999
EXECUTIVE ACTION: 03/04/1999 Bill Concurred -- VOTE: 18 - 0
FINAL DISPOSITION 03/19/1999 Chapter Number Assigned
-
- SB 124** **SPONSOR:** Beck, Tom **SHORT TITLE:** Generally revise laws relating to mental health
BY REQUEST OF: Department Of Public Health And Human Services
REFERRED ON: 02/16/1999 HEARD ON: 03/05/1999
EXECUTIVE ACTION: 03/11/1999 Bill Concurred as Amended -- VOTE: 16 - 0
FINAL DISPOSITION 04/06/1999 Chapter Number Assigned
-
- SB 176** **SPONSOR:** Bohlinger, John **SHORT TITLE:** Revise laws on abuse of elders and persons with developmental disabilities
REFERRED ON: 02/16/1999 HEARD ON: 03/05/1999
EXECUTIVE ACTION: 03/09/1999 Bill Concurred as Amended -- VOTE: 15 - 2
FINAL DISPOSITION 03/30/1999 Chapter Number Assigned
-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: By CHAIRMAN LOREN SOFT, on March 5, 1999 at 3:00 P.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Loren Soft, Chairman (R)
Rep. Carolyn Squires, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Edith Clark (R)
Rep. Bob Davies (R)
Rep. Tom Dell (D)
Rep. Mary Anne Guggenheim (D)
Rep. Verdell Jackson (R)
Rep. Billie Krenzler (D)
Rep. Ralph Lenhart (D)
Rep. Brad Molnar (R)
Rep. Trudi Schmidt (D)
Rep. Jim Shockley (R)
Rep. Bruce Simon (R)
Rep. Bill Thomas (R)

Members Excused: Rep. Carol Williams (D)

Members Absent: Rep. Roy Brown, Vice Chairman (R)
Rep. Chase Hibbard (R)

Staff Present: David Niss, Legislative Branch
Cassandra Drynan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 176
SB 197
SB 124
Executive Action: SB 197 DO PASS 15-2

HEARING ON SENATE BILL 124

Opening Statement by Sponsor: SEN. BECK introduced the bill.
{Tape : 1; Side : A; Approx. Time Counter : 0.1 - 3.9}

Proponents' Testimony:

Ms. Anita Roessmann, Montana Advocacy Program, distributed EXHIBIT(1), a proposed amendment to SB 124 and EXHIBIT(2).
{Tape : 1; Side : A; Approx. Time Counter : 3.9 - 13.3}

Mr. Dan Anderson, Department of Public Health and Human Services, distributed EXHIBIT(3).
{Tape : 1; Side : A; Approx. Time Counter : 13.3 - 19.7}

Mr. Gene Haire, Executive Director of the Mental Disabilities Board of Visitors.
{Tape : 1; Side : A; Approx. Time Counter : 19.7 - 22.4}

Ms. Andrea Maryl, Executive Director of the Mental Health Association of Montana, distributed EXHIBIT(4)
{Tape : 1; Side : A; Approx. Time Counter : 22.4 - 26.4}

Mr. Al Smith, former attorney for patients at the Montana State Hospital, distributed EXHIBIT(5), proposed amendments to SB 124.
{Tape : 1; Side : A; Approx. Time Counter : 26.4 - 1:B:2.4}

Opponents' Testimony: None.

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 2.7 - 26.9}

Closing by Sponsor: SEN. BECK closed.

{Tape : 1; Side : B; Approx. Time Counter : 26.9 - 30.7}

HEARING ON SENATE BILL 176

Opening Statement by Sponsor: SEN. BOHLINGER introduced the bill. EXHIBIT(6) & EXHIBIT(7) were distributed.
{Tape : 2; Side : A; Approx. Time Counter : 0.2 - 13.5}

Proponents' Testimony:

Mr. Rick Bartos, Department of Public Health and Human Services.
{Tape : 2; Side : A; Approx. Time Counter : 13.5 - 14.7}

Mr. Al V. Thomas, American Association of Retired Persons.

{Tape : 2; Side : A; Approx. Time Counter : 14.7 - 15.2}

Ms. Susan Dow, Director of the agency that services disabled people.

{Tape : 2; Side : A; Approx. Time Counter : 15.2 - 15.9}

REP. KRENZLER stated that Mr. Bill Kennedy of Yellowstone County was a proponent of SB 176.

{Tape : 2; Side : A; Approx. Time Counter : 15.9 - 16.4}

Mr. Verner Bertlesen, Montana Senior Citizens Association.

{Tape : 2; Side : A; Approx. Time Counter : 16.4 - 17.1}

Ms. Jeanne Bauman, Montana Credit Union Network.

{Tape : 2; Side : A; Approx. Time Counter : 17.1 - 17.9}

Ms. Anita Roessmann, Montana Advocacy Association.

{Tape : 2; Side : A; Approx. Time Counter : 17.9 - 18.2}

Ms. Sami Butler, Montana Nurses Association.

{Tape : 2; Side : A; Approx. Time Counter : 18.2 - 18.4}

Ms. Rose Hughes, Montana Health Care Association.

{Tape : 2; Side : A; Approx. Time Counter : 18.4 - 19.4}

Mr. Steve Bullock, Department of Justice.

{Tape : 2; Side : A; Approx. Time Counter : 19.4 - 19.8}

Mr. Jim Ahrens, MHA.

Ms. Christine Kaufman, Montana Human Rights.

Ms. Beda Lovitt, Montana Medical Association.

{Tape : 2; Side : A; Approx. Time Counter : 19.8 - 20.2}

Mr. Al Smith, Montana Trial Lawyers Association.

{Tape : 2; Side : A; Approx. Time Counter : 20.2 - 21.1}

Ms. Sharon Hoff, Montana Catholic Conference.

{Tape : 2; Side : A; Approx. Time Counter : 21.1 - 21.6}

Opponents' Testimony: None.

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 21.6 - 2:B:28.1}

Closing by Sponsor: SEN. BOHLINGER closed.

{Tape : 2; Side : B; Approx. Time Counter : 28.1 - 3:A:0.2}

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: By CHAIRMAN LOREN SOFT, on March 8, 1999 at 3:00 P.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Loren Soft, Chairman (R)
Rep. Carolyn Squires, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Edith Clark (R)
Rep. Bob Davies (R)
Rep. Tom Dell (D)
Rep. Mary Anne Guggenheim (D)
Rep. Chase Hibbard (R)
Rep. Verdell Jackson (R)
Rep. Billie Krenzler (D)
Rep. Ralph Lenhart (D)
Rep. Brad Molnar (R)
Rep. Trudi Schmidt (D)
Rep. Jim Shockley (R)
Rep. Bruce Simon (R)
Rep. Bill Thomas (R)
Rep. Carol Williams (D)

Members Excused: Rep. Roy Brown, Vice Chairman (R)

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Cassandra Drynan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 219, SB 290 & SB 259,

Executive Action: SB 176 BE CONCURRED IN AS
AMENDED 15-2
SB 290 BE CONCURRED IN 17-0
SB 75 TABLED 11-6

EXECUTIVE ACTION ON SB 290 - SB 75 & SB 176

Motion/Vote: REP. AHNER moved that SB 290 BE CONCURRED IN.
Motion carried unanimously.

{Tape : 3; Side : B; Approx. Time Counter : 11.2 - 12.7}

Motion/Vote: REP. MOLNAR moved that SB 75 BE TABLED. Motion carried 11-6 with Dell, Guggenheim, Schmidt, Shockley, Squires, and Williams voting no. No proxy vote was received by REP. HIBBARD.

{Tape : 3; Side : B; Approx. Time Counter : 14.3 - 14.9}

Motion: REP. KRENZLER moved that SB 176 BE CONCURRED IN.

{Tape : 3; Side : B; Approx. Time Counter : 16.8 - 17}

Motion/Vote: REP. SHOCKLEY moved that SB 176 BE AMENDED AS IN EXHIBIT(32). Motion carried unanimously.

{Tape : 3; Side : B; Approx. Time Counter : 17.1 - 17.9}

Motion: REP. SHOCKLEY moved that SB 176 BE CONCURRED IN AS AMENDED.

{Tape : 3; Side : B; Approx. Time Counter : 18.2 - 18.4}

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 18.4 - 26.3}

Motion: REP. MOLNAR moved that SB 176 BE AMENDED, SEE TAPE LOG.

{Tape : 3; Side : B; Approx. Time Counter : 26.3 - 28.4}

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 28.6 - 31.2}

Vote: The question was called for on REP. MOLNAR'S MOTION TO AMEND. Motion failed 7-9 with Ahner, Clark, Davies, Jackson, Molnar, Shockley and Simon voting aye.

{Tape : 3; Side : B; Approx. Time Counter : 31.3 - 32.4}

Motion/Vote: REP. MOLNAR moved that SB 176 BE TABLED. Motion failed 15-2 with Jackson and Molnar voting aye. No proxy vote was received from REP. HIBBARD.

{Tape : 4; Side : A; Approx. Time Counter : 4.5 - 6.1}

Motion/Vote: REP. SIMON moved SB 176 BE CONCURRED IN AS AMENDED BY REVERSING THE VOTE TO TABLE. Motion carried 15-2 with Jackson and Molnar voting no.

{Tape : 4; Side : A; Approx. Time Counter : 6.1 - 6.4}